

EXCEPTION



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OPEN MEETING AGENDA ITEM

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BEFORE THE ARIZONA CORPORATION COMMISSION

2009 FEB 26 P 3: 55

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Arizona Corporation Commission

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FEB 26 2009

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IN THE MATTER OF THE APPLICATION
OF JOHNSON UTILITIES, L.L.C. FOR AN
EXTENSION OF ITS SEWER CERTIFICATE
OF CONVENIENCE AND NECESSITY AND
TO EXPAND AN EXISTING SERVICE
AREA

DOCKET NO. WS-02987A-07-0487

**EXCEPTION OF JOHNSON
UTILITIES TO RECOMMENDED
OPINION AND ORDER**

Snell & Wilmer

LAW OFFICES
One Arizona Center, 400 E. Van Buren
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(602) 382-6000

Johnson Utilities, LLC, dba Johnson Utilities Company ("Johnson Utilities" or the "Company") hereby files its exception to the Recommended Opinion and Order ("ROO") issued February 17, 2009, in the above-captioned docket. Johnson Utilities has a concern with the timeframe in the second ordering paragraph of the ROO (page 13, lines 25-28, and page 14, line 1), which states:

IT IS FURTHER ORDERED that Johnson Utilities L.L.C., shall file by December 31, 2009, with Docket Control, as a compliance item in this docket, documentation from the Arizona Department of Environmental Quality demonstrating that Johnson Utility L.L.C.'s Pecan Water Reclamation Plant (ADEQ Inventory #105324) is in full compliance and that the Notice of Violations issued on March 4, 2008, and June 5, 2008, have been closed.

Although Johnson Utilities does not object to the condition that its Pecan Wastewater Reclamation Plant ("Pecan WWTP") achieve full compliance with Arizona Department of Environmental Quality ("ADEQ") requirements as a pre-condition to the effectiveness of its Certificate of Convenience and Necessity ("CC&N") extension,

Johnson Utilities has a concern regarding its ability to meet the December 31, 2009, deadline because the Company has no control over ADEQ's decision-making process or its timeframes for issuing Notices of Compliance and closing out pending Notices of Violation ("NOVs"). Johnson Utilities has already submitted all required documentation to ADEQ regarding the Pecan WWTP NOVs and is simply waiting for ADEQ to issue its Notice of Compliance. It is hoped that this would occur well before the end of 2009, but Johnson Utilities cannot control the timing. Therefore, Johnson Utilities respectfully requests that: (i) the second ordering paragraph of the ROO be modified to delete the December 31, 2009, deadline; (ii) the third ordering paragraph of the ROO be deleted; and (iii) the fourth ordering paragraph of the ROO be modified by deleting that portion of the paragraph beginning with the word "if" at page 14, line 6, through the comma at page 14, line 8.

RESPECTFULLY SUBMITTED this 26th day of February, 2009.

SNELL & WILMER L.L.P.

By 

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ORIGINAL and 13 copies filed this
26th day of February, 2009, with:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85004

COPIES of the foregoing hand-delivered this
26th day of February, 2009, to:

Yvette B. Kinsey, Administrative Law Judge
Hearing Division
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